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U.S. DISTRICT COURT E.D.N.Y.
★ APR 6 8 2011 ★
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DONNA GUCCIONE,

Plaintiff,

-against-

PORTFOLIO RECOVERY
ASSOCIATES, LLC,

Defendant.

SPATT, J.

BOYLE, M.J.

**VERIFIED COMPLAINT and DEMAND
FOR JURY TRIAL**

CV 11 - 1756

NOW COMES Plaintiff, Donna Guccione ("Plaintiff"), by and through her attorneys, Krohn & Moss, Ltd., for her Verified Complaint against Defendant, Portfolio Recovery Associates, LLC ("Defendant"), alleges as follows:

Nature of the Action

1. This action is brought by Plaintiff pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

Parties

2. Plaintiff is a natural person residing in New Hyde Park, Nassau County, New York.

3. Plaintiff is allegedly obligated to pay a debt and is a consumer as defined by 15 U.S.C. § 1692a(3).

4. Defendant is a company conducting business in the state of New York.

5. Defendant is a debt collector as defined by 15 U.S.C. § 1692a(6), and sought to collect a consumer debt from Plaintiff.

6. Defendant acted through its agents, employees, officers, members, directors, heirs,

successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

7. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

8. Because Defendant is principally located in the state of Virginia, and conducts business in New York, personal jurisdiction is established

9. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

Factual Allegations

10. Defendant is collecting from Plaintiff on a debt allegedly owed to Nassau University Medical Center.

11. In or around February of 2010, Defendant began placing collection calls to Plaintiff on her cell phone from multiple numbers including 205-588-8181 and 484-489-2840.

12. Defendant also places collection calls to Plaintiff’s father, Arthur R. Apicella, Sr. (“Apicella”), once every other month asking for Plaintiff.

13. On multiple occasions, Apicella told Defendant to stop calling.

14. Despite being told not to call, Defendant continues to call Apicella.

15. On or about March 4, 2010, Plaintiff sent Defendant a check as payment in full and sent a cease and desist letter. *See* Exhibit “A” hereto.

16. Despite this, Defendant continues to place collection calls to Plaintiff up to four times per week.

CLAIM FOR RELIEF

17. Defendant's violations of the FDCPA include, but are not limited to, the following:

- a. Defendant violated §1692c(c) of the FDCPA by continuing to contact Plaintiff after Plaintiff notified Defendant in writing that she wanted Defendant to cease all further communication;
- b. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress or abuse Plaintiff in connection with the collection of a debt; and
- c. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiff's telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
- d. Plaintiff is entitled to his attorney's fees and costs incurred in this action.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

- (1) Statutory damages of \$1000.00 pursuant to 15 U.S.C. § 1692k;
- (2) Reasonable attorneys' fees, costs pursuant to 15 U.S.C. § 1692k; and
- (3) Awarding such other and further relief as may be just, proper and equitable.

Dated: March 23, 2011

KROHN & MOSS, LTD.

By: 

Adam T. Hill

KROHN & MOSS, LTD.

120 W. Madison St., 10th Fl.

Chicago, Illinois 60602

Telephone: 312-578-9428

Telefax: 866-802-0021

ahill@consumerlawcenter.com

Attorney for Plaintiff

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, Donna Guccione, hereby demands a jury trial in this matter.

VERIFICATION

STATE OF NEW YORK)

:SS.:

COUNTY OF NASSAU)

Plaintiff, Donna Guccione, being duly sworn, deposes and says:

1. I am the Plaintiff in this civil proceeding;
2. I have read the foregoing Verified Complaint prepared by my attorneys and I believe that all of the facts contained therein are true and correct, to the best of my knowledge, and formed after reasonable inquiry;
3. I believe that this civil Complaint is well ground in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law;
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it;
6. Each and every exhibit I have provided to my attorneys, which has/have been attached to this Complaint, is/are true and correct copy(s) of the original(s); and
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated the exhibit(s), except that some of the attached may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, Donna Guccione, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 2/11/11

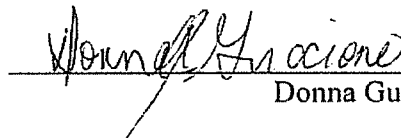

Donna Guccione

EXHIBIT A

202333401 NEW 10/07 8710061027

OFFICIAL CHECK

FOR YOUR PROTECTION SAVE THIS COPY

citibank
Citibank, N.A.

OFFICIAL CHECK

SERVICE INSTRUCTIONS
PLEASE CONSULT A CITIBANK ASSOCIATE OR YOUR CLIENT MANUAL FOR A
DESCRIPTION OF THE BANK'S POLICY CONCERNING PLACING A STOP PAYMENT
REQUEST ON THIS INSTRUMENT AND THE FEE ASSOCIATED WITH THAT REQUEST.

DATE

02-20
311

PAY
TO
THE
ORDER
OF

NAME OF REMITTER
ADDRESS

Citibank, N.A.
Citibank, N.A.
Citibank, N.A.

TERMS
KEEP THIS COPY FOR YOUR RECORD OF THE TRANSACTION. TO REPORT A LOSS OR FOR ANY OTHER INFORMATION
ABOUT THE INSTRUMENT, CONTACT THE INSTITUTION FROM WHICH YOU RECEIVED THE INSTRUMENT.

NON NEGOTIABLE

REMITTER COPY

Ⓢ Check sent to Portfolio 3/4/10



Portfolio Recovery Associates, LLC.

We're giving debt collection a good name.

February 05, 2010

NASSAU UNIVERSITY MEDICAL CENTER
 NASSAU UNIVERSITY MEDICAL CENTER
 PRA Account/Reference No: NAH830G020623
 BALANCE: \$4,221.99

AFFORDABLE OPTIONS TO RESOLVE THIS ACCOUNT!

Sometimes difficult situations arise that can cause financial hardship.
 We want to help you resolve your account, and have developed three affordable options for you to pay off this account.

Single Payment Option:	6 Month Payment Plan:	Balance in Full Payment Plan:
<ul style="list-style-type: none"> Take \$2,531.99 off the balance Pay \$1,690.00 no later than 03/19/2010 Your account will be considered "Settled in Full" after we post your payment 	<ul style="list-style-type: none"> Take \$2,531.99 off the balance Pay over 6 equal monthly installments of \$320.00 First payment due no later than 03/19/2010 Your account will be considered "Settled in Full" after we post your final payment 	<ul style="list-style-type: none"> Pay as little as \$130.00 per month First payment due no later than 03/19/2010 Your account will be considered "Paid in Full" once the account reaches a zero balance

1021
 3/4/10

PD: infult

Please take off call list

Get started and take advantage of one of these options to move you closer to debt reduction and less financial worry!

Portfolio Recovery Associates purchased the account referenced above on 04/05/2007.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor if different from the current creditor.

Mail:	Call:	Online:
Mail all checks and payments to: Portfolio Recovery Associates, LLC P.O. Box 12914 Norfolk, VA 23541	Call Toll-Free at 1-800-772-1413 to discuss payment arrangements. Let us prove how committed we are to working with you!	Pay us online at: www.portfoliorecovery.com

Hours of Operation (EST) 730 AM to 11 PM Mon.-Fri., 8 AM to 5 PM Sat., 2 PM to 9 PM Sun.

Company Address: Portfolio Recovery Associates, LLC, 120 Corporate Boulevard, Norfolk, VA 23502

Disputes Correspondence Address: 140 Corporate Boulevard, Norfolk, VA 23502 or E-mail: PRA_Disputes@portfoliorecovery.com

Credit Card Payments - Third party vendors may charge a transaction fee for processing payments made by credit card; however, PRA does not charge or accept any fees. Please discuss this option with our staff if you have any questions.

This letter is from a debt collector and is an attempt to collect a debt.
 Any information obtained will be used for that purpose.

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